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Letter dated 15 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write in reference to my letter of 12 September 2002 (S/2002/1011).

The Counter-Terrorism Committee has received the attached supplementary report from Nicaragua, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for this letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: Spanish]

Note verbale dated 31 March 2003 from the Permanent Mission of Nicaragua to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Nicaragua to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and transmits herewith the supplementary report of the Government of Nicaragua containing the replies to the questions and comments of the Counter-Terrorism Committee concerning its first report submitted pursuant to Security Council resolution 1373 (2001) (see enclosure).

Enclosure

Report of the Government of Nicaragua

Replies to the questions and comments of the Counter-Terrorism Committee concerning the report of Nicaragua submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001)

New York, 31 March 2003

Subparagraph 1 (a):

- **Do informal banking networks exist in Nicaragua? Please outline the legal provisions regulating them, if any.**

In Nicaragua, there are informal banking networks, which are defined as financial enterprises or entities not subject to oversight by either the Superintendency of Banking and Other Financial Institutions or the Central Bank. Such entities include:

- Microfinancing entities that do not handle public funds;
- Savings and loan cooperatives; or
- Persons or businesses engaged in the remittance of funds.

The regulatory framework for these entities, depending on which category they fall into, is as follows:

- **Microfinancing entities considered to be business enterprises**: governed by Act No. 147, "General Act on Not-for-Profit Legal Entities". They are registered with the Department of Registry and Control of the Ministry of the Interior.
- **Savings and Loan Cooperatives**: governed by the General Act on Cooperatives. They are registered in a special Register kept by the Ministry of Labour.
- **Remittance of Funds**: may be effected by individuals or legal entities. The latter must be established as one of the legal structures provided for in the Code of Commerce and registered in the Public Business Register.

In addition, whenever either microfinancing entities or savings and loan cooperatives extend loans or financing, they are subject to Act No. 175 entitled "Act Regulating Loans to Individuals" and the amendment to it contained in Act No. 374 regulating the maximum interest rate that can be applied to such loans.

These entities are not authorized to accept deposits from the general public and do not fall within the scope of Act No. 314 entitled "General Act on Banks, non-Banking Financial Institutions and Financial Groups" or Act No. 316 entitled "Act on the Superintendency of Banks and Other Financial Institutions".

The phenomenon known as "parallel and clandestine banking" does not exist in Nicaragua. Banks and financial institutions in our country which operate in accordance with the above-mentioned Act No. 314 and Act No. 316 are authorized to receive deposits from the public and, to that end, must obtain a licence from the State through the Superintendency of Banks and Other Financial Institutions. There

is also an entity known as the Representative Office of Foreign Banks, which are required to register with the Superintendency of Banks and Other Financial Institutions but are not authorized to accept deposits from the public.

- **Has the "Financial Analysis Commission" provided for in article 23 of the Act on Narcotic Drugs, Psychotropic Substances and Other Controlled Substances and Laundering of Money and Assets Deriving from Illicit Activities already been set up? Is it or will it be entrusted with tasks which are relevant to the prevention and suppression of the financing of terrorist acts?**

The Financial Analysis Commission, provided for in article 23 of Act No. 285 entitled "Act on Narcotic Drugs, Psychotropic Substances and Other Controlled Substances and Laundering of Money and Assets Deriving from Illicit Activities", was established on 25 February 2002. Under Act No. 285, the functions of this Commission are aimed, in general, at preventing the illicit activities described in this Act from being committed in Nicaragua.

These legal provisions help to regulate the prevention and suppression of the financing of terrorist acts. The Superintendency of Banks and Other Financial Institutions, for its part, has instructed banks and financial institutions to refer to the "Guide for Financial Institutions in Detecting Terrorist Financing", prepared by the Financial Action Task Force on Money Laundering (FATF).

As for prevention of the financing of terrorist acts, the Financial Analysis Commission provided an inter-agency response to Nicaragua's Self-Evaluation Questionnaire on the eight FATF Special Recommendations on Terrorist Financing. It should be noted, however, that Act No. 285 does not assign it specific functions in this regard. There is now a draft law that would supersede Act No. 285 and incorporates new elements concerning the Commission.

We realize that, for logistical and budgetary reasons, this Commission is not carrying out all the functions envisaged for it by the Act. Its main tasks have been related to the problem of money-laundering, in close coordination with the Executive Secretariat of the National Anti-Drug Council, to which this Commission is attached. For example, it submitted an inter-agency response to Nicaragua's Self-Assessment Questionnaire on the prevention and control of money-laundering, on the basis of the 40 FATF recommendations, 19 FATF recommendations and 25 FATF criteria for identifying non-cooperative countries or territories. This Superintendency also keeps the Commission duly informed of reports of suspicious or significant operations received from the entities under its supervision.

- **What penalties apply to financial institutions that do not comply with articles 32 or 33 of that Act?**

Under article 26 of the regulations implementing Act No. 285, financial institutions that violate article 32 of the Act are subject to fines equivalent to 50 per cent of the amount of the financial transaction. Fines for non-compliance with article 33 are equivalent to the full amount of the transaction. Moreover, the Superintendency of Banks and Other Financial Institutions has established a special regulation entitled "Regulation on the Prevention of the Laundering of Money and Other Assets Applicable to All Financial Institutions under the Supervision of the Superintendency of Banks and Other Financial Institutions".

- **Are articles 32 and 33 of that Act applicable to the accounts and financial transactions of all persons or only to persons appearing on the list which has been distributed to competent authorities according to subparagraph 1 (d) of the report?**

The norms contained in these articles are universally applied to the accounts and financial transactions of all persons without exception.

- **Which are the Nicaraguan authorities responsible for issuing that list and what is the procedure leading to the inclusion or deletion of a name?**

The laws and other regulations do not expressly establish which Nicaraguan authorities are responsible for issuing the lists of persons and entities potentially linked to terrorism or the procedure leading to the inclusion or deletion of names. Since the creation of the National Committee for the Implementation of the Central American Plan for Comprehensive Cooperation to Prevent and Combat Terrorism and Related Activities, however, the following procedure has been in place:

- The Ministry of Foreign Affairs has received these lists through official channels (embassies or multilateral organizations) and has forwarded them to the competent local authorities, including the Superintendency of Banks and Other Financial Institutions;
- The Superintendency, on the basis of article 3, paragraph 12, and article 19, paragraph 1, of Act No. 316, immediately transmitted all the lists it received to the institutions under its supervision, with instructions to report any operation carried out with any of the persons or entities contained in those lists;
- In the event of any report to this effect — which has not occurred — the Superintendency will contact the Office of the Attorney-General of the Republic to institute the relevant procedure under the law.

Subparagraph 1 (b):

- **Nicaragua intends to ratify the International Convention for the Suppression and Financing of Terrorism in the near future. The Counter-Terrorism Committee would therefore be grateful to receive a progress report regarding any proposed amendment to legislation with a view to implementing that Convention, especially as regards articles 2 and 4.**

Nicaragua ratified the International Convention for the Suppression and Financing of Terrorism and deposited the instrument of ratification on 4 November 2002. Domestic legislation is being revised and the National Assembly is even considering the study of a model law relating to terrorism. The list of conventions to consult in order to ensure that legislation takes into account the new reality with regard to terrorism has been submitted to the Ministry of Foreign Affairs.

Subparagraph 1 (c):

- **Has the lifting of bank secrecy resulting from requests made to the competent courts, as mentioned in relation to subparagraph 1 (c), resulted in the revelation of the existence in Nicaragua of any funds or other financial assets or economic resources linked to terrorists or terrorist groups? If so, what action has been taken, if any?**

The competent authorities maintain systematic control over account- and cardholders officially registered anywhere in the National Financial System. It is thus possible to maintain an exhaustive plan for monitoring anyone, whether national or foreigner, who might somehow be directly or indirectly linked to terrorist groups or be part of the network of what is known as organized crime.

It should be stressed that no funds linked to terrorist groups have been uncovered in our country. Measures have been taken, however, for example, maintaining strict coordination with each of the banking and financial entities for the purpose of establishing a plan to monitor and control the use and handling of funds, and with other State institutions in any way involved in these operations for the purpose of investigating every person who has anything to do with that bank account.

Maintaining close communication and exchanging information with the International Criminal Police Organization (Interpol) for the prevention and control of such crimes is yet another measure.

- **Do Nicaraguan legal provisions permit the freezing of funds, financial assets, etc., as required by subparagraph 1 (c) of the resolution? In particular, please describe the existing or proposed procedure for freezing funds, financial assets, etc., of persons or entities suspected of terrorist activities, as distinct from freezing funds, financial assets, etc., of persons suspected of engaging in money-laundering activities.**

Nicaraguan legal provisions do not permit the freezing of funds or financial assets and other resources merely on the grounds of suspected participation in terrorist activities. However, the Code of Criminal Procedure does set out a procedure.

As for the procedure for freezing funds of persons suspected of financing terrorist activities, a judicial authority may order, directly or through the Superintendency of Banks, the freezing or blocking of the accounts of accused or convicted persons in connection with any illicit activity, including terrorism-related activities.

The details of operations effected through such accounts — or others that are not frozen — may be provided to the competent authorities for the purposes of investigating and bringing charges, either by means of a simple request of the Attorney-General of the Republic to the Superintendency of Banks, or once the judicial authority orders the lifting of bank or financial secrecy. The following provisions empowered the judicial authorities to order the freezing of accounts as a preventive measure during proceedings:

- Article 167 of the Political Constitution;
- Article 12 of Act No. 260: Organic Act on the Judiciary;
- Article 109 of Act No. 314: General Act on Banks, Financial Institutions Other than Banks and Financial Groups;
- Article 167, subparagraph 2 (c), (d) and (e) of Act 406 establishing the Code of Criminal Procedure, which states: "genuine protective measures are ... (c) the freezing of bank accounts and share certificates and bonds; (d) preventive sequestration or seizure; (e) the placing of companies in administration".

In principle, the judicial procedure for freezing funds is identical for both terrorism and money-laundering. However, in the latter case, it may also be preceded by the transmission of a suspicious transaction report from a bank to the Superintendency of Banks, in accordance with the provisions of Act No. 285 and the Regulation for the Prevention of the Laundering of Money and Other Assets Applicable to all Financial Institutions under the Supervision of the Superintendency of Banks and Other Financial Institutions, which stipulates that banks and other financial institutions should provide information on any transaction suspected of being linked to money-laundering or which departs from the normal pattern associated with the account in question.

The Superintendency of Banks and Other Financial Institutions immediately transmits such reports to the Financial Analysis Commission, which is chaired by the Attorney-General. Circulars containing lists of the names of persons and entities allegedly linked to terrorism could contribute to detecting transactions which may be associated with the misappropriation of funds for terrorist activities, either because the recipient of the funds has links to suspicious persons or entities or because subsequent investigations uncover evidence to that effect.

Subparagraph 1 (d):

- **How does the financial tracking system ensure that funds received by associations are not diverted from their stated purposes to terrorist activities?**

The aforementioned Regulation for the Prevention of the Laundering of Money and Other Assets Applicable to all Financial Institutions under the Supervision of the Superintendency of Banks and Other Financial Institutions stipulates that banks and other financial institutions should notify the Superintendency of Banks of any transaction suspected of being linked to money-laundering or which departs from the normal pattern associated with the account in question.

The Superintendency of Banks and Other Financial Institutions immediately transmits such reports to the Financial Analysis Commission, which is chaired by the Attorney-General. Circulars containing lists of the names of persons and entities allegedly linked to terrorism could contribute to detecting transactions which may be associated with the misappropriation of funds for terrorist activities, either because the recipient of the funds has links to suspicious persons or entities or because subsequent investigations uncover evidence to that effect.

Subparagraph 2 (a):

- **Is there any provision in Nicaraguan law to prohibit the acquisition of firearms without a licence (especially at the time of purchase)? If so, how is the provision of Nicaraguan law enforced in order to prevent terrorists from obtaining weapons?**

Stores selling firearms are governed by the Public Security Department of the National Police, which is responsible for issuing licences to those stores. Such licences are individual and non-transferable.

The requirements for the issuing of the licences are as follows:

– Articles of incorporation of the company

- Registration at city hall
- Licence to trade
- List of employees and their personal information
- Inventory of current stock
- Minimum share capital of 100 córdobas
- Liability insurance policy
- Registration at the Department of Taxes
- Tax identification number
- Fully identified suppliers

Stores are obliged to keep an internal log to record general information about buyers and the firearms and ammunition sold and to create customer files containing personal information, background and identity checks and so on.

Article 97 of the Regulation stipulates that stores authorized to sell firearms and ammunition must keep records of income and expenditure and must report on a weekly basis to the local Public Security Department regarding the identity of buyers, their address and the type and number of firearms purchased. Failure to comply with those requirements will result in the annulment of the licence. These provisions are designed to establish effective operational measures that will make it possible to locate and monitor owners of firearms. Measures for the attachment and seizure of illegal firearms are also in place.

Although there is no specific law in Nicaragua for the monitoring of firearms, there are a number of regulations in that area, including:

- Act on the National Police, known as Act No. 228;
- Regulation implementing Act No. 228;
- Rules of Procedure of the Public Security Department of the National Police.

It should be emphasized that the capacity of the national institutions to comply with these regulations, including those relating to the purchase, import and export of firearms, is not known.

- **What is Nicaragua's legislation and practice, including as regards import and export controls, concerning the acquisition and possession of weapons?**

With regard to the legal framework for controlling the export and import of firearms, the following are currently in place:

- Act No. 228: Act on the National Police, published in Official Gazette No. 162 of 28 August 1996, article 3, paragraph 19, and article 22;
- Act on the Bearing of Firearms of 9 February 1937;
- Regulation implementing the Act on the National Police, Decree Nos. 26-96, published in Official Gazette No. 32 of 14 February 1997, chapter IV, section three, and articles 84 to 120;
- Rules of Procedure of the Public Security Department of the National Police.

In order to import firearms which have been legally purchased abroad, the relevant licence must be requested in advance from the National Police. To qualify for such a licence, the requirements for owning or bearing arms must be met. Nicaraguan consulates will issue the relevant licence once all the transport requirements have been fulfilled, in accordance with international security regulations.

Article 94 of the Regulation implementing the Act on the National Police stipulates that anyone transporting firearms from one location to another (within national territory, in transit, import or export) must be in possession of the relevant bill of lading, issued in accordance with the Rules of Procedure of the local Public Security Department.

Within that legal framework, no one may import or trade firearms without the relevant licence issued by the competent authority.

- **Please outline the measures, both legislative and practical, preventing entities and individuals from recruiting, collecting funds or soliciting other forms of support for terrorist activities to be carried out inside or outside Nicaragua, including, in particular:**
  - **the carrying out, within or from Nicaragua, of recruiting, collecting of funds and soliciting of other forms of support from other countries; and**
  - **deceptive activities such as recruitment based on a representation to the recruit that the purpose of the recruitment is one (e.g. teaching) different from the true purpose and collection of funds through front organizations.**

Legislation on this issue is disparate and incomplete and lacks unity and uniformity. Similarly, the aforementioned regulations address only internal control whereas, in practice, responsibility for the registration of firearms falls to the Public Security Department of the National Police. In Nicaragua, there are no legislative or practical measures to prevent recruitment or the collection of funds.

In order to address international crime, Nicaragua drew up a National Plan against Terrorism in 2001 with a view to:

- Utilizing and expediting mechanisms for exchanging information about possible acts of terrorism at the domestic level and with national, regional and multilateral bodies;
- Strengthening airport and port security;
- Doing everything possible to monitor and track migratory movements in order to identify any movements made by persons linked to terrorism.

To date, it has not been established that any groups of persons or companies linked to this type of activity are present in Nicaragua, but mention should be made of the measures designed to control illegal trafficking set out in the National Plan against Terrorism.

The National Police, through the Department of Economic Investigations, is developing operational measures to carry out systematic monitoring of the entire national financial system. The national central office of Interpol collaborates, where

appropriate, with the Department of Migration and Alien Affairs regarding the control of foreigners entering the country and verification and patrolling mechanisms and intelligence are being used to address possible terrorist activities.

Nicaragua has no legislation that refers specifically to preventing recruitment, collection of funds, the use of front organizations or the soliciting of support from other countries for terrorist activities. However, as stated above, we are ready and willing to cooperate: in accordance with lists submitted by the Embassy of the United States of America and the Ministry of Foreign Affairs, the Superintendency of Banks and Other Financial Institutions has issued circulars to all the bodies under its supervision.

It is important to note that, in accordance with Act Nos. 314 and 316, when the collection of funds takes the form of deposits from the public, the only bodies authorized to process these deposits are banks and financial institutions, under the supervision of the Superintendency of Banks and Other Financial Institutions.

In October 2001, Nicaragua signed the 1999 United Nations Convention for the Suppression of the Financing of Terrorism. The Nicaraguan Parliament (National Assembly) ratified that Convention by means of Legislative Decree No. 3287, which was published in Official Gazette No. 92 of 20 May 2002. In addition, by means of Decree No. 62-2002, published in Official Gazette No. 121 of 28 June 2002, the President of the Republic ratified the United Nations Convention against Transnational Organized Crime, which was approved by the Nicaraguan National Assembly by means of Legislative Decree No. 3246, published in Official Gazette No. 38 of 25 February 2002.

Nicaragua is a member of the Caribbean Financial Action Task Force (CFATF) and, in that connection, pursuant to Security Council resolution 1373 (2001), the Financial Analysis Commission provided replies to the self-assessment questionnaire on the eight recommendations of the Financial Action Task Force on the financing of terrorism; these replies reflect the situation of Nicaragua with regard to that issue. The Ministry of the Interior is familiar with the document in question, having been apprised of it by the Secretariat of the National Council against Drugs, which has been working in close collaboration with the Financial Analysis Commission.

We have been informed that the National Assembly has drawn up a new draft Penal Code, which could include elements relating to terrorist activities and their financing.

In Title XI, Chapters I and II, articles 493, 499 and 500 of the Penal Code, terrorist acts are classified as offences against public order. Individuals involved in the financing of terrorism could be classed as "promoters", "instigators" or "essential cooperators" and terrorist organizations are covered by the concept of criminal conspiracy. Article 546 of Title XIII, Chapter II of the Penal Code concerning offences compromising the peace of the Republic should also be mentioned in this context.

Subparagraph 2 (b):

- Please describe how communication has been improved with the law enforcement authorities of the Central American area, with national and international police, intelligence and security agencies.

The National Police has a timely and effective system for communicating with other Central American police and security forces. The National Police is also a member of the Association of Chiefs of Police of Central America, the Central American Integration system and party to the Framework Treaty on Democratic Security in Central America. Those entities form a regional legal community to protect, supervise and promote human rights and legal security.

- **Which are the Nicaraguan institutions responsible for providing early warning to other States?**

The institutions responsible for providing early warning to other States are the Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Defence, National Police and the Army.

Subparagraph 2 (c):

- Since the report refers specifically to the legal regime relating to refugees, the CTC is interested to know whether there are any provisions under the existing laws which exclude from access to Nicaragua persons of the kind mentioned in Subparagraph 2 (c) who are not asylum-seekers. Please give examples of any relevant action taken.

The Department of Migration and Alien Affairs has underlined the importance of adopting the Law on Migration and Alien Affairs governing such matters. Similarly, the monitoring of foreigners takes on special relevance in the context of the National Plan against Terrorism, which has not been implemented for financial reasons.

Subparagraph 2 (d):

- **Which of the offences set forth in the relevant international conventions and protocols relating to terrorism have been made punishable in domestic law by Nicaragua?**

On 18 June 2002, Nicaragua ratified the United Nations Convention against Transnational Organized Crime (Official Gazette, 28 June 2002). However, the offences are not yet punishable under domestic law.

Subparagraph 2 (e):

- **Is Nicaragua considering revising its maximum penalty of two years of imprisonment for persons guilty of terrorism in view of this Subparagraph of the resolution, which requires that punishments duly reflect the seriousness of terrorist acts, especially since money-laundering is punished with a maximum penalty of 20 years of imprisonment?**

The draft Penal Code includes an amendment to increase the maximum penalty from two years' to 20 years' imprisonment.

- According to Article 500 of the Penal Code, the promoters and instigators of terrorist offences are held liable, if the perpetrator of those offences cannot be discovered. Is the promotion and instigation of terrorist offences punishable regardless of whether perpetrator is discovered? If not, please explain how Nicaragua will ensure that any person who participates in the financing,

planning or preparation of terrorist acts or in supporting terrorist acts is brought to justice.

The promotion and instigation of terrorist offences is indeed punishable. The legislation is broad in scope and provides for punishment of both perpetrators and accomplices by stipulating that the promoters and instigators shall be held responsible if it proves impossible to discover the perpetrators.

• Please provide the CTC with a progress report on the relevant amendments of the Nicaraguan Penal Code and on the new draft Penal Code.

The draft Penal Code expands the definition of terrorist acts against:

(a) The life, integrity, health or liberty of the President or Vice President of the Republic.

(b) Members of the National Assembly, Supreme Court Judges and Judges of the Supreme Electoral Council.

(c) Physical facilities of the National Police or the Army.

Conspiracy is punishable by three to five years' imprisonment and those who carry out terrorist acts are sentenced to 20 years' imprisonment instead of 10. The Penal Code also provides for exemption from sentencing for those who inform the authorities in time or prevent a terrorist action from being carried out.

• What is the competence of the courts of Nicaragua to deal with criminal acts of each of the following kinds:

– an act committed within Nicaragua by any person (whether that person is currently present in Nicaragua or not);

Following the entry into force of the new Code of Criminal Procedure on 24 December 2002, courts may try only those individuals who are present in Nicaragua. There is no procedure for trying people in their absence but the Judge may declare the accused to be in default if the defendant fails to obey the summons of the judge or court without just cause or absconds from the place of detention or assigned residence. Declaring a defendant in default does not suspend the trial but prevents judgement from being handed down.

– an act committed outside Nicaragua by a person who is a citizen of, or habitually resident in, Nicaragua (whether that person is currently present in Nicaragua or not);

Nicaraguan courts are competent to try an offence committed outside the country by a Nicaraguan national, provided that the offence is also a criminal offence under Nicaraguan legislation and that the defendant is present in Nicaragua.

– an act committed outside Nicaragua by a foreign national who is currently in Nicaragua?

It is not within the jurisdiction of Nicaraguan courts to try a foreign national for an offence committed abroad. The authorities would simply process the extradition request submitted by the requesting State in accordance with the relevant extradition treaties or conventions.

Subparagraph 2 (f):

- **What is the legal time frame within which a request for judicial assistance in criminal investigations or criminal proceedings, including those relating to the financing or support of terrorist acts, must be met? How long does it actually take in practice to implement such a request in Nicaragua?**

There is no legal time frame within which a request for judicial assistance must be met. Under Nicaraguan legislation, no hearings or application procedures are required if the request is to adduce or take evidence. In such cases, the Supreme Court expeditiously orders the evidence to be adduced or taken and instructs the competent district judge to ensure that the request is carried out in full compliance with the procedural rules of Nicaragua, irrespective of the evidence requested or origin of the request.

- **Is the existence of a bilateral or multilateral agreement a prerequisite to the offering by Nicaragua of legal assistance to other countries as required by this Subparagraph?**

Under Nicaraguan legislation, the existence of bilateral or multilateral agreements is not a prerequisite for offering legal assistance. However, bilateral or multilateral agreements/treaties should be applied where they exist.

Subparagraph 2 (g):

- Please describe in more detail the measures taken at border points which are mentioned in Subparagraph 2 (g), point 2, of the report.

Measures taken in central offices and border points include:

- Changing the format of residence card for foreigners to include more and improved security features. New passport with over 40 security features.
- Exchanging information on templates for travel documents with the Central American Commission on Migration (OCAM) composed of Belize, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica and Panama. Another such forum is the Regional Conference on Migration ("Puebla Process") with its 11 members: Belize, Canada, Costa Rica, El Salvador, United States of America, Guatemala, Honduras, Mexico, Nicaragua, Panama and the Dominican Republic. The Conference has adopted measures concerning the smooth flow of information through its Virtual Secretariat, for instance.
- Joint operations between the National Police, the Department of Migration and officials from the United States Immigration and Naturalization Service (INS).
- Ongoing verification of compliance with security and travel document requirements in restricted areas of border posts and prior to passengers boarding aircraft, ships or land transport.
- Coordinating the standardization, with strict respect for national sovereignty, of restricted nationalities for entry into the Central American Region with a view to establishing common procedures and requirements.

- As part of the Regional Conference on Migration, training in situ for migration, police and customs officials from border posts with the participation of staff from neighbouring countries and assessment of participants at the end of the training.
- Identifying training needs in fraudulent documents, interview techniques and migration clearance with the support of officials from the United States Immigration and Naturalization Service, Canada and Mexico.

Subparagraph 3 (c):

- **Has Nicaragua entered into bilateral agreements to prevent and suppress terrorist attacks and take action against perpetrators of such acts?**

Nicaragua and El Salvador have signed a Cooperation Agreement on Combating Terrorism, Drug Trafficking and Related Activities.

The agreement was approved by Legislative Decree No. 3289 (Official Gazette No. 92, 21 May 2002).

- **With which countries other than Costa Rica, El Salvador, Guatemala, Honduras and Panama has Nicaragua entered into treaties on extradition and mutual legal assistance?**

1. Treaty on Extradition of Criminals between Nicaragua and Belgium, signed at Guatemala on 5 November 1904.
2. Treaty on Extradition of Criminals between Nicaragua and the United States of America, signed at Washington, D.C. on 1 March 1905.
3. Treaty on Extradition of Criminals between Nicaragua and the United Kingdom of Great Britain and Northern Ireland, signed at Managua on 9 April 1905 (in force since 13 February 1906).
4. Convention on Extradition of Criminals, signed at Washington, D.C. on 20 December 1907 (repealed by article 19 of the 1923 Washington Convention on Extradition).
5. Convention on Extradition, signed at Washington, D.C. on 7 February 1923.
6. Code of Private International Law (Bustamante Code, containing a Title on extradition), done at Havana, Cuba on 20 February 1928 (in force for Nicaragua since 28 February 1930).
7. Treaty of Extradition between Nicaragua and Colombia, signed at Managua, Nicaragua on 25 March 1929.
8. Inter-American Convention on Extradition, done at Montevideo, Uruguay on 26 December 1933 (ratified by Nicaragua on 24 May 1937).
9. Central American Convention on Extradition, signed at Guatemala on 12 April 1934 (ratified by Nicaragua in 1935).
10. Inter-American Convention on Letters Rogatory, done in Panama on 30 January 1975 (signed by Nicaragua on the same date but not ratified).

11. Convention on Extradition of Criminals between Nicaragua and the Commonwealth of the Bahamas (by exchange of notes dated 17 March and 16 May 1978).

12. Inter-American Convention on Extradition, done at Caracas, Venezuela on 25 February 1981 (signed by Nicaragua but not ratified).

13. Inter-American Convention on Extraterritorial Validity of Foreign Judgments. La Paz, Bolivia, 24 May 1984 (signed by Nicaragua on that date but not ratified).

14. Inter-American Convention on Serving Criminal Sentences Abroad, done at Managua, Nicaragua on 9 July 1993 (instrument of ratification deposited on 9 October 2001).

15. Inter-American Convention on Mutual Assistance in Criminal Matters. Done at Nassau, Commonwealth of the Bahamas, on 23 May 1992 (ratified by Nicaragua on 24 September 2002, instrument of ratification deposited on 25 November 2002).

16. Treaty on Extradition and Legal Assistance in Criminal Matters between Nicaragua and Chile, signed at Santiago on 28 December 1993.

    Adopted by Legislative Decree No. 1884. Published in Official Gazette No. 63 of 1 April 1998.

    Ratified by Decree No. 30-98. Published in Official Gazette No. 82 of 6 June 1998.

    Instrument of ratification published in Official Gazette No. 221 of 18 November 1999.

17. Agreement between Nicaragua and Spain on the serving of criminal sentences.

    Adopted by Legislative Decree No. 1312. Published in Official Gazette No. 123 of 2 June 1996.

    Ratified by Decree No. 10-96. Published in Official Gazette No. 140 of 26 July 1996.

18. Treaty on Extradition between Nicaragua and Mexico.

    Adopted by Legislative Decree No. 1888. Published in Official Gazette No. 64 of 2 April 1998.

    Ratified by Decree No. 29-98. Published in Official Gazette No. 82 of 6 May 1998.

19. Treaty on Extradition between Nicaragua and Spain.

    Adopted and ratified by Decree No. 70-2000. Published in Official Gazette No. 161 of 25 August 2000.

20. Treaty between Nicaragua and Mexico on the Execution of Criminal Sentences.

    Adopted and ratified by Decree No. 83-2000. Published in Official Gazette No. 171 of 8 September 2000.

21. Treaty on Mutual Legal Assistance in Criminal Matters between Nicaragua and Mexico.

Adopted and ratified by Decree No. 12-2000. Published in Official Gazette No. 129 of 9 July 2001.

22. Agreement between Nicaragua and El Salvador on cooperation to combat terrorism, drug-trafficking and related activities.

Adopted by Legislative Decree No. 3289. Published in Official Gazette No. 92 of 21 May 2002.

Subparagraph 3 (d):

- The CTC would welcome a progress report, in relation to the twelve relevant international conventions and protocols relating to terrorism, on:

- the steps taken in order to become a party to the instruments to which Nicaragua is not yet a party; and

- progress made in enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.

Progress report in relation to the twelve international conventions and protocols relating to terrorism:

(1) Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963 (acceded to by Nicaragua on 22 November 1973);

(2) Convention for the Suppression of the Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970 (ratified by Nicaragua on 6 November 1973);

(3) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 (ratified by Nicaragua on 6 November 1973);

(4) Convention on the Protection and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the United Nations General Assembly on 14 December 1973 (ratified by Nicaragua on 10 March 1975);

(5) International Convention against the Taking of Hostages, adopted by the United Nations General Assembly on 17 December 1979 (not acceded to by Nicaragua). The process for acceding to this Convention began in November 2002 but the relevant executive and legislative decrees have not yet been enacted;

(6) Convention on the Physical Protection of Nuclear Material, done at Vienna on 3 March 1980 (not acceded to by Nicaragua). Consultations are being held with the competent authorities as a preliminary step towards beginning the process for acceding to this Convention;

(7) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971). Done at

Montreal on 24 February 1988 (acceded to by Decree No. 48-2001, published in Official Gazette No. 81 of 2 May 2001);

(8) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 (not acceded to by Nicaragua). Consultations are being held with the competent authorities as a preliminary step towards beginning the process for acceding to this Convention;

(9) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988 (not acceded to by Nicaragua). Consultations are being held with the competent authorities as a preliminary step towards beginning the process for acceding to this Convention;

(10) Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991 (Executive Decree No. 9-98, by which Nicaragua acceded to the Convention, has been enacted and published in Official Gazette No. 25 of 6 February 1998). However, a Legislative Decree approving this decision has yet to be enacted and the instrument of accession drafted);

(11) International Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1997 (instrument of ratification deposited on 17 January 2003);

(12) International Convention for the Suppression of the Financing of Terrorism, done at New York on 9 December 1999 (instrument of ratification deposited on 4 November 2002).

The Republic of Nicaragua considers it essential that action to combat terrorism should be conducted through international cooperation. Consequently, together with its Central American neighbours it helped establish the "Central American Plan for Comprehensive Cooperation to Prevent and Combat Terrorism and Related Activities".

Against this background, the National Committee for the Implementation of the "Central American Plan for Comprehensive Cooperation to Prevent and Combat Terrorism and Related Activities" was established pursuant to Executive Decree No. 108-2001 of 26 November 2001. The Committee's purpose is to provide the Government with advice and support regarding all anti-terrorism matters, including the adoption of national and regional measures, incorporation of relevant international instruments in domestic legislation and dissemination of their contents.

The National Committee is chaired by the Minister for Foreign Affairs and composed of the Ministries of Defence, the Interior, Transport and Infrastructure, Health, the Government Procurator's Office, the Army, the National Police, the Department of Migration and Alien Affairs and the Customs Office.

At the national level, the Committee designed the "National Plan of the Republic of Nicaragua to combat terrorism and related offences", adopted by Presidential Decision No. 20-2003 of 16 January 2003 and published in Official Gazette No. 18 of 27 January 2003. This document will be an official instrument of the Government of Nicaragua and all the country's relevant institutions will be bound to comply with it strictly.

Subparagraph 3 (e):

- **Have the offences set forth in the relevant international conventions and protocols relating to terrorism been included as extraditable offences in the bilateral treaties to which Nicaragua is a party?**

The normative and conceptual contents of the multilateral treaties have served as a basis for the elaboration of bilateral treaties on the subject which the Government of Nicaragua has signed and proposes to sign.

Subparagraph 3 (f):

- **How is Article 1 (F) of the 1951 Convention relating to the Status of Refugees (referred in Subparagraph 2 (c) of the report) implemented in Nicaragua?**

On the basis of the 1951 Convention and 1967 Protocol, article 42 of the Constitution excludes the individuals mentioned in article 1 (F) of the Convention from refugee status, as follows:

> "The right to refugee status and asylum is recognized in Nicaragua. Refugee status and asylum apply only to those persecuted for working towards democracy, peace, justice and human rights.
>
> The law shall determine the conditions for asylum or political refugee status pursuant to the international agreements ratified by Nicaragua."

It should be noted that this constitutional provision is interpreted as applying solely to persons who commit offences against the State and the international community and that it tactically limits the privileges and benefits received when refugee status is granted.

Subparagraph 3 (g):

- Subparagraph 3 (g) of the resolution requests States to ensure "that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists". Please clarify how Nicaragua intends to meet this requirement in view of Article 42 of its Political Constitution.

Although it is true that article 42 of the Constitution recognizes and guarantees the right to refugee status and to asylum, such status protects only those persecuted for working in society towards democracy, peace, justice and human rights and who have organized publicly in accordance with the legal order.

Refugee status and asylum are also determined by domestic legislation and by the international agreements which Nicaragua has ratified, pursuant to which any person who commits acts of terrorism against the public security and tranquillity of any State shall not enjoy this right.

Has Nicaragua addressed any of the concerns expressed in paragraph 4 of the resolution in addition to Nicaragua being a party to the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal?

In addition to being a State party to the above-mentioned agreements on terrorism, Nicaragua is also a State party to the United Nations Convention against Transnational Organized Crime and the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials.

At the regional level, Nicaragua participates together with the other Central American countries in the Plan against Organized Crime, implemented by police forces in the area, whose 10 components include abduction, terrorism, drug-trafficking, smuggling and arms trafficking (see annex).

Article 34 of the Framework Treaty on Domestic Security in Central America states, "The Parties undertake to refrain from acquiring, maintaining or permitting the stationing in or transit through their territories of weapons of indiscriminate mass destruction, including chemical, radiological and bacteriological weapons. The Parties likewise undertake not to construct or to allow anyone to construct in their territories, facilities to manufacture or store such weapons."

Other matters:

Could Nicaragua please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution.

In addition to the provisions of the national legislation in force, the "National Committee for the Implementation of the 'Central American Plan for Comprehensive Cooperation to Prevent and Combat Terrorism and Related Activities'" has been established. The Committee's coordinating structure, as defined in the Plan, consists of the Ministries of Defence and the Interior, and the Committee is chaired by the Ministry of Foreign Affairs (see annex).

The CTC looks forward to receiving a copy of the National Plan against Terrorism, once adopted.

A copy of the National Plan against Terrorism and Related Activities of 3 June 2002 is attached.